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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,608	08/13/2001	Tsuyoshi Watanabe	44471-262265 (13700)	7518

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EXAMINER

CULBRETH, ERIC D

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 05/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/928,608

Applicant(s)

WATANABE

Examiner

Eric D Culbreth

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the last subparagraph of claim 7, there is no antecedent basis for “the lower rear face portion” and “the upper rear face portion”, as upper and lower rear surfaces were earlier recited.

Also in the first line of the last subparagraph of claim 7 there is no antecedent basis for “the side portions”.

In claim 9, there is no clear antecedent basis for “each adjacent two arc shape portions” (the plurality of arc shape portions previously recited have not been recited as adjacent).

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent 9-99795 (of record, cited by applicant).

Japanese ‘795 discloses an airbag for employment in a vehicle as functionally recited to protect a vehicle occupant facing the airbag comprising an upper bag portion A having an upper rear surface in Figures 2(1) and 2(2) and a lower bag portion B joined to the upper bag portion A to form an airbag, the lower bag portion having a rear surface. The recitations that the upper rear

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portion cushions an occupant's face and that the lower rear portion cushions the abdomen are mere functional statements of intended use, failing to patentably define distinguishing structural characteristics. In Figure 2(2), the lower part of the bag is extended more than the upper part, and the lower rear surface, looking at Figure 1(2), is joined with side portions with two curved joining lines. However, Japanese '795 does not teach the lower rear surface or face portion in Figure 2(2) extended more than the upper rear surface or face portion. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Japanese '795's embodiment of Figure 2(2) to include the rear surface of the lower part of the bag extending further than the upper part of the bag (i.e., to have the seam for the upper and lower rear surfaces joined at the same level as the side surfaces as in Figure 2(1) of Japanese '795) in order to join the rear surfaces at equivalently functioning locations in the art, as case law has held that there would be no invention in shifting parts to a different position since the operation of the device would not thereby be modified (In re Japiske, 86 USPQ 70 (CCPA 1950) (claim 7)).

Regarding claim 8, each of the lower joining lines of Japanese '795 each have arc shaped portions which are contiguously integrated therein.

3. Claim 9 as best understood is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese '795 as applied to claim 7 above, and further in view of Krickl (of record).

Japanese '795 does not disclose each of the lower joining lines having a plurality of arc shape portions in which each adjacent two arc shape portions have different radii and join continuously with each other. Krickl discloses lower edges where adjacent arc sections have different radii and join continuously with each other (i.e., along the lower edge 20, where the

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shape changes from a straight line to a curved portion; as the edge goes from a straight line to a curve and back to a straight line, it makes continuous arc portions of different radii adjacent each other). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Japanese '795 to include a lower joining line of different adjacent radii as taught by Krickl in order to better position the bag relative to the occupant.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D Culbreth whose telephone number is 703/308-0360. The examiner can normally be reached on Monday-Thursday, 9:30-7:00 alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone numbers for the organization where this application or proceeding is assigned are 703/746-3508 for regular communications and 703/308-2571 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

edc
May 2, 2003

Eric D Culbreth
Primary Examiner
Art Unit 3616

Eric Culbreth
5/2/03